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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

29 UNITED STATES OF AMERICA and the  
30 STATE OF CALIFORNIA *ex rel.*,  
31 SHELBY EIDSON,

32 *Plaintiffs,*

33 vs.

34 AURORA LAS ENCINAS LLC, LINDA  
35 PARKS, SIGNATURE HEALTHCARE  
36 SERVICES LLC, AND DOES 1  
37 THROUGH 10, jointly and severally,  
38 *Defendants.*

Case No.: CV 10-1031 JAK (RZx)  
(Hon. John A. Kronstadt)

RELATOR'S OBJECTIONS TO THE  
DECLARATION OF ALAN G.  
GILCHRIST IN SUPPORT OF  
DEFENDANTS AURORA LAS  
ENCINAS, LLC AND SIGNATURE  
HEALTHCARE SERVICES, LLC'S  
MOTION TO DISMISS PURSUANT  
TO RULE 12(b)(1) OF THE  
FEDERAL RULES OF CIVIL  
PROCEDURE

Date: April 8, 2013

Time: 8:30 a.m.

Crtn: 750

**TO THE UNITED STATES COURT FOR THE CENTRAL DISTRICT  
OF CALIFORNIA AND TO ALL PARTIES AND THEIR ATTORNEYS OF  
RECORD:**

Plaintiff/Relator Shelby Eidson hereby submits the following evidentiary objections to the Declaration of Alan G. Gilcrest in Support of Defendants' Motion to Dismiss.

<u>Material Objected To</u>	<u>Grounds for Objection</u>
Objection No. 1 Para. 2: 7-8 "showing that the patient could not actually read sign language"	Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir. 2005) ("Attorney argument is no substitute for evidence.").  Sustained _____ Overruled _____

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	<p>Objection No. 2</p> <p>Para. 3:10-11</p> <p>“reflecting her lack of personal knowledge with regard to Patient No. 11’s inability to read sign language”</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i>, 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i>, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).</p> <p>Sustained _____</p> <p>Overruled _____</p>
20 21 22 23 24 25 26 27 28	<p>Objection No. 3</p> <p>Para. 4:13-14</p> <p>“showing her lack of personal knowledge with regard to the alleged rape of Patient No. 21”</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p.</p>

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211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

Objection No. 4  
Para. 5:17  
“showing her lack of personal knowledge of patient No. 24”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

1		Overruled _____
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3	Objection No. 5	Speculative (Fed. R. Evid. 602);
4	Para. 6(a):20-21	Lacks Foundation (Fed. R. Evid. 104);
5	“showing that one-on-one monitoring	Prejudicial, confusing, waste of time
6	was always started or discontinued	(Fed. R. Evid. 403); Arguments of
7	through physician order”	counsel are not evidence. 22 Fed. Prac.
8		& Proc. Evid. § 5163 (1st ed.)(citing 1
9		Devitt & Blackmar, Federal Jury
10		Practice and Instructions, 2d ed. 1970, p.
11		211.) <i>Also see British Airways Bd. v.</i>
12		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
13		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
14		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
15		2005) (“Attorney argument is no
16		substitute for evidence.”).
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18		Sustained _____
19		Overruled _____
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22	Objection No. 6	Speculative (Fed. R. Evid. 602);
23	Para. 6(b):23-25	Lacks Foundation (Fed. R. Evid. 104);
24	“showing that one-on-one monitoring	Prejudicial, confusing, waste of time
25	was always started or discontinued	(Fed. R. Evid. 403); Arguments of
26	through physician order”	counsel are not evidence. 22 Fed. Prac.
27		& Proc. Evid. § 5163 (1st ed.)(citing 1
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Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

Objection No. 7  
Para. 6(c):27 and 6(c):1-2  
“showing that one-on-one monitoring was always started or discontinued through physician order”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

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	<p>Sustained _____</p> <p>Overruled _____</p>
<p>Objection No. 8</p> <p>Para. 6(d):4-6</p> <p>“showing that one-on-one monitoring was always started or discontinued through physician order”</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i>, 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i>, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).</p> <p>Sustained _____</p> <p>Overruled _____</p>
<p>Objection No. 9</p> <p>Para. 6(e):8-10</p> <p>“showing that one-on-one monitoring was always started or discontinued</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of</p>

1 through physician order”

counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

16 Objection No. 10

17 Para. 6(f):13-15

18 “showing that one-on-one monitoring  
19 was always started or discontinued  
20 through physician order”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir.

1		2005) (“Attorney argument is no
2		substitute for evidence.”).
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4		Sustained _____
5		Overruled _____
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7	Objection No. 11	Speculative (Fed. R. Evid. 602);
8	Para. 6(g):17-19	Lacks Foundation (Fed. R. Evid. 104);
9	“showing that one-on-one monitoring	Prejudicial, confusing, waste of time
10	was always started or discontinued	(Fed. R. Evid. 403); Arguments of
11	through physician order”	counsel are not evidence. 22 Fed. Prac.
12		& Proc. Evid. § 5163 (1st ed.)(citing 1
13		Devitt & Blackmar, Federal Jury
14		Practice and Instructions, 2d ed. 1970, p.
15		211.) <i>Also see British Airways Bd. v.</i>
16		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
17		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
18		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
19		2005) (“Attorney argument is no
20		substitute for evidence.”).
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23		Sustained _____
24		Overruled _____
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26	Objection No. 12	Speculative (Fed. R. Evid. 602);
27	Para. 6(h):21-23	Lacks Foundation (Fed. R. Evid. 104);
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1 “showing that one-on-one monitoring  
2 was always started or discontinued  
3 through physician order”  
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Prejudicial, confusing, waste of time  
(Fed. R. Evid. 403); Arguments of  
counsel are not evidence. 22 Fed. Prac.  
& Proc. Evid. § 5163 (1st ed.)(citing 1  
Devitt & Blackmar, Federal Jury  
Practice and Instructions, 2d ed. 1970, p.  
211.) *Also see British Airways Bd. v.*  
*Boeing Co.*, 585 F.2d 946, 952 (9th Cir.  
1978); *Enzo Biochem, Inc. v. Gen-Probe,*  
*Inc.*, 424 F.3d 1276, 1284 (Fed. Cir.  
2005) (“Attorney argument is no  
substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

18 Objection No. 13  
19 Para. 7(a):25-26  
20 “showing her lack of personal knowledge  
21 with regard to the circumstances  
22 pertaining to Patient No. 1 and ordering  
23 of one-on-one monitoring”  
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Speculative (Fed. R. Evid. 602);  
Lacks Foundation (Fed. R. Evid. 104);  
Prejudicial, confusing, waste of time  
(Fed. R. Evid. 403); Arguments of  
counsel are not evidence. 22 Fed. Prac.  
& Proc. Evid. § 5163 (1st ed.)(citing 1  
Devitt & Blackmar, Federal Jury  
Practice and Instructions, 2d ed. 1970, p.  
211.) *Also see British Airways Bd. v.*  
*Boeing Co.*, 585 F.2d 946, 952 (9th Cir.

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1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

Objection No. 14  
Para. 7(b):2-3  
“showing her lack of personal knowledge with regard to the circumstances pertaining to Patient No. 12 and ordering of one-on-one monitoring”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

1 Objection No. 15  
 2 Para. 7(c):5-6  
 3 “showing her lack of personal knowledge  
 4 with regard to the circumstances  
 5 pertaining to Patient No. 13 and ordering  
 6 of one-on-one monitoring”  
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Speculative (Fed. R. Evid. 602);  
 Lacks Foundation (Fed. R. Evid. 104);  
 Prejudicial, confusing, waste of time  
 (Fed. R. Evid. 403); Arguments of  
 counsel are not evidence. 22 Fed. Prac.  
 & Proc. Evid. § 5163 (1st ed.)(citing 1  
 Devitt & Blackmar, Federal Jury  
 Practice and Instructions, 2d ed. 1970, p.  
 211.) *Also see British Airways Bd. v.*  
*Boeing Co.*, 585 F.2d 946, 952 (9th Cir.  
 1978); *Enzo Biochem, Inc. v. Gen-Probe,*  
*Inc.*, 424 F.3d 1276, 1284 (Fed. Cir.  
 2005) (“Attorney argument is no  
 substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

20 Objection No. 16  
 21 Para. 7(d):8-9  
 22 “showing her lack of personal knowledge  
 23 with regard to the circumstances  
 24 pertaining to Patient No. 15 and ordering  
 25 of one-on-one monitoring”  
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Speculative (Fed. R. Evid. 602);  
 Lacks Foundation (Fed. R. Evid. 104);  
 Prejudicial, confusing, waste of time  
 (Fed. R. Evid. 403); Arguments of  
 counsel are not evidence. 22 Fed. Prac.  
 & Proc. Evid. § 5163 (1st ed.)(citing 1  
 Devitt & Blackmar, Federal Jury  
 Practice and Instructions, 2d ed. 1970, p.

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211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

Objection No. 17  
Para. 7(e):11-12  
“showing her lack of personal knowledge with regard to the circumstances pertaining to Patient No. 34 and ordering of one-on-one monitoring”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

1		Overruled _____
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3	Objection No. 18	Speculative (Fed. R. Evid. 602);
4	Para. 7(f):15-16	Lacks Foundation (Fed. R. Evid. 104);
5	“showing her lack of personal knowledge	Prejudicial, confusing, waste of time
6	with regard to the circumstances	(Fed. R. Evid. 403); Arguments of
7	pertaining to Patient No. 37 and ordering	counsel are not evidence. 22 Fed. Prac.
8	of one-on-one monitoring”	& Proc. Evid. § 5163 (1st ed.)(citing 1
9		Devitt & Blackmar, Federal Jury
10		Practice and Instructions, 2d ed. 1970, p.
11		211.) <i>Also see British Airways Bd. v.</i>
12		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
13		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
14		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
15		2005) (“Attorney argument is no
16		substitute for evidence.”).
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19		Sustained _____
20		Overruled _____
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22	Objection No. 19	Speculative (Fed. R. Evid. 602);
23	Para. 7(g):18-19	Lacks Foundation (Fed. R. Evid. 104);
24	“showing her lack of personal knowledge	Prejudicial, confusing, waste of time
25	with regard to the circumstances	(Fed. R. Evid. 403); Arguments of
26	pertaining to Patient No. 38 and ordering	counsel are not evidence. 22 Fed. Prac.
27	of one-on-one monitoring”	& Proc. Evid. § 5163 (1st ed.)(citing 1
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Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

Objection No. 20  
Para. 7(h):21-22  
“showing her lack of personal knowledge with regard to the circumstances pertaining to Patient No. 50 and ordering of one-on-one monitoring”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

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	Sustained _____ Overruled _____
<p>Objection No. 21</p> <p>Para. 8:24-25</p> <p>“showing that the patient was admitted to a locked unit and then placed on an administrative hold”</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i>, 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i>, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).</p> <p>Sustained _____</p> <p>Overruled _____</p>
<p>Objection No. 22</p> <p>Para. 9:2-3</p> <p>“showing her lack of personal knowledge with regard to the circumstances</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of</p>

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	pertaining to Patient No. 26 being admitted to a locked unit”	counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v.</i> <i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i> <i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).  Sustained _____ Overruled _____
16 17 18 19 20 21 22 23 24 25 26 27 28	Objection No. 23 Para. 10:7 “evidencing the fact that a fire alarm did go off”	Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v.</i> <i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i> <i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.

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	2005) (“Attorney argument is no substitute for evidence.”).
	Sustained _____ Overruled _____
<p>Objection No. 24</p> <p>Para. 11:9-10</p> <p>“showing her lack of personal knowledge with regard to the fire discussed in her Fourth Amended Complaint”</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i>, 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i>, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).</p> <p>Sustained _____ Overruled _____</p>
<p>Objection No. 25</p> <p>Para. 12(a):13-14</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p>

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	“showing distinctive discharge planning and an absence of ‘patient dumping’”	Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).
18 19 20 21 22 23 24 25 26 27 28	Objection No. 26 Para. 12(b):18-19 “showing distinctive discharge planning and an absence of ‘patient dumping’”	Sustained _____ Overruled _____  Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.

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1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

Objection No. 27  
Para. 13(a):21-22  
“demonstrating her lack of personal knowledge as to the circumstances surrounding Patient No. 27’s discharge”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

1	Objection No. 28	Speculative (Fed. R. Evid. 602);
2	Para. 13(b):24-25	Lacks Foundation (Fed. R. Evid. 104);
3	“demonstrating her lack of personal	Prejudicial, confusing, waste of time
4	knowledge as to the circumstances	(Fed. R. Evid. 403); Arguments of
5	surrounding Patient No. 28’s discharge”	counsel are not evidence. 22 Fed. Prac.
6		& Proc. Evid. § 5163 (1st ed.)(citing 1
7		Devitt & Blackmar, Federal Jury
8		Practice and Instructions, 2d ed. 1970, p.
9		211.) <i>Also see British Airways Bd. v.</i>
10		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
11		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
12		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
13		2005) (“Attorney argument is no
14		substitute for evidence.”).
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16		Sustained _____
17		Overruled _____
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20	Objection No. 29	Speculative (Fed. R. Evid. 602);
21	Para. 14:2-3	Lacks Foundation (Fed. R. Evid. 104);
22	“showing legitimate bases for issuance of	Prejudicial, confusing, waste of time
23	passes”	(Fed. R. Evid. 403); Arguments of
24		counsel are not evidence. 22 Fed. Prac.
25		& Proc. Evid. § 5163 (1st ed.)(citing 1
26		Devitt & Blackmar, Federal Jury
27		Practice and Instructions, 2d ed. 1970, p.
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211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

Objection No. 30  
Para. 15:5  
“showing her lack of personal knowledge as to Patient No. 29’s inpatient passes”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

1		Overruled _____
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3	Objection No. 31:	Speculative (Fed. R. Evid. 602);
4	Para. 16:7-8	Lacks Foundation (Fed. R. Evid. 104);
5	“showing that no passes were issued dto	Prejudicial, confusing, waste of time
6	this patient”	(Fed. R. Evid. 403); Arguments of
7		counsel are not evidence. 22 Fed. Prac.
8		& Proc. Evid. § 5163 (1st ed.)(citing 1
9		Devitt & Blackmar, Federal Jury
10		Practice and Instructions, 2d ed. 1970, p.
11		211.) <i>Also see British Airways Bd. v.</i>
12		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
13		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
14		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
15		2005) (“Attorney argument is no
16		substitute for evidence.”).
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19		Sustained _____
20		Overruled _____
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22	Objection No. 32:	Speculative (Fed. R. Evid. 602);
23	Para. 17:10-11	Lacks Foundation (Fed. R. Evid. 104);
24	“showing her lack of personal knowledge	Prejudicial, confusing, waste of time
25	as to the fact that Patient No. 30 did not	(Fed. R. Evid. 403); Arguments of
26	receive inpatient passes”	counsel are not evidence. 22 Fed. Prac.
27		& Proc. Evid. § 5163 (1st ed.)(citing 1
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Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

Objection No. 33:  
Para. 18:13-16  
“showing that the patient was admitted when there were no adolescent psychiatric beds available in Los Angeles County, and kept on one-on-one supervision until the patient was placed in an adolescent bed”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

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2		Sustained _____
3		Overruled _____
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5	Objection No. 34:	Speculative (Fed. R. Evid. 602);
6	Para. 19:19-20	Lacks Foundation (Fed. R. Evid. 104);
7	“showing her lack of personal knowledge	Prejudicial, confusing, waste of time
8	with regard to the circumstances	(Fed. R. Evid. 403); Arguments of
9	surrounding Patient No. 33’s admission”	counsel are not evidence. 22 Fed. Prac.
10		& Proc. Evid. § 5163 (1st ed.)(citing 1
11		Devitt & Blackmar, Federal Jury
12		Practice and Instructions, 2d ed. 1970, p.
13		211.) <i>Also see British Airways Bd. v.</i>
14		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
15		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
16		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
17		2005) (“Attorney argument is no
18		substitute for evidence.”).
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21		Sustained _____
22		Overruled _____
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24	Objection No. 35:	Speculative (Fed. R. Evid. 602);
25	Para. 20:22-23	Lacks Foundation (Fed. R. Evid. 104);
26	“showing that he was not placed on one-	Prejudicial, confusing, waste of time
27	on-one supervision until he assaulted	(Fed. R. Evid. 403); Arguments of
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another patient”

counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

Objection No. 36:  
Para. 21:25-26  
“showing her lack of personal knowledge surrounding the circumstances under which Patient No. 34 was placed on one-on-one supervision”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir.

1		2005) (“Attorney argument is no
2		substitute for evidence.”).
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4		Sustained _____
5		Overruled _____
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7	Objection No. 37:	Speculative (Fed. R. Evid. 602);
8	Para. 23:7-8	Lacks Foundation (Fed. R. Evid. 104);
9	“showing her lack of personal knowledge	Prejudicial, confusing, waste of time
10	surrounding Patient No. 50’s 2009	(Fed. R. Evid. 403); Arguments of
11	admission and the fact that Patient No. 50	counsel are not evidence. 22 Fed. Prac.
12	was not a patient in March of 2009”	& Proc. Evid. § 5163 (1st ed.)(citing 1
13		Devitt & Blackmar, Federal Jury
14		Practice and Instructions, 2d ed. 1970, p.
15		211.) <i>Also see British Airways Bd. v.</i>
16		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
17		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
18		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
19		2005) (“Attorney argument is no
20		substitute for evidence.”).
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22		Sustained _____
23		Overruled _____
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26	Objection No. 38:	Speculative (Fed. R. Evid. 602);
27	Para. 24(a):11-12	Lacks Foundation (Fed. R. Evid. 104);
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1 “showing that the patient had a treatment  
2 plan timely formulated during the  
3 patient’s admission”  
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Prejudicial, confusing, waste of time  
(Fed. R. Evid. 403); Arguments of  
counsel are not evidence. 22 Fed. Prac.  
& Proc. Evid. § 5163 (1st ed.)(citing 1  
Devitt & Blackmar, Federal Jury  
Practice and Instructions, 2d ed. 1970, p.  
211.) *Also see British Airways Bd. v.*  
*Boeing Co.*, 585 F.2d 946, 952 (9th Cir.  
1978); *Enzo Biochem, Inc. v. Gen-Probe,*  
*Inc.*, 424 F.3d 1276, 1284 (Fed. Cir.  
2005) (“Attorney argument is no  
substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

18 Objection No. 39:  
19 Para. 24(b):16-17  
20 “showing that the patient had a treatment  
21 plan timely formulated during the  
22 patient’s admission”  
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Speculative (Fed. R. Evid. 602);  
Lacks Foundation (Fed. R. Evid. 104);  
Prejudicial, confusing, waste of time  
(Fed. R. Evid. 403); Arguments of  
counsel are not evidence. 22 Fed. Prac.  
& Proc. Evid. § 5163 (1st ed.)(citing 1  
Devitt & Blackmar, Federal Jury  
Practice and Instructions, 2d ed. 1970, p.  
211.) *Also see British Airways Bd. v.*  
*Boeing Co.*, 585 F.2d 946, 952 (9th Cir.

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	1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).
	Sustained _____ Overruled _____
Objection No. 40: Para. 25(a):19-20 “showing her lack of personal knowledge regarding Patient No. 57’s treatment plan”	Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).
	Sustained _____ Overruled _____

1 Objection No. 41:  
 2 Para. 25(b):22-23  
 3 “showing her lack of personal knowledge  
 4 regarding Patient No. 57’s treatment  
 5 plan”

Speculative (Fed. R. Evid. 602);  
 Lacks Foundation (Fed. R. Evid. 104);  
 Prejudicial, confusing, waste of time  
 (Fed. R. Evid. 403); Arguments of  
 counsel are not evidence. 22 Fed. Prac.  
 & Proc. Evid. § 5163 (1st ed.)(citing 1  
 Devitt & Blackmar, Federal Jury  
 Practice and Instructions, 2d ed. 1970, p.  
 211.) *Also see British Airways Bd. v.*  
*Boeing Co.*, 585 F.2d 946, 952 (9th Cir.  
 1978); *Enzo Biochem, Inc. v. Gen-Probe,*  
*Inc.*, 424 F.3d 1276, 1284 (Fed. Cir.  
 2005) (“Attorney argument is no  
 substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

20 Objection No. 42:  
 21 Para. 26:26-27  
 22 “showing that the patient was only placed  
 23 on one-on-one monitoring after her  
 24 attempted suicide”

Speculative (Fed. R. Evid. 602);  
 Lacks Foundation (Fed. R. Evid. 104);  
 Prejudicial, confusing, waste of time  
 (Fed. R. Evid. 403); Arguments of  
 counsel are not evidence. 22 Fed. Prac.  
 & Proc. Evid. § 5163 (1st ed.)(citing 1  
 Devitt & Blackmar, Federal Jury  
 Practice and Instructions, 2d ed. 1970, p.

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211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

Objection No. 43:  
Para. 27:2-3  
“showing her lack of personal knowledge of the facts surrounding Patient No. 15’s placement on one-on-one monitoring”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

1		Overruled _____
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3	Objection No. 44:	Speculative (Fed. R. Evid. 602);
4	Para. 28:6-7	Lacks Foundation (Fed. R. Evid. 104);
5	“showing that all of the one-on-one	Prejudicial, confusing, waste of time
6	orders were issued by physicians and	(Fed. R. Evid. 403); Arguments of
7	none were rescinded by the Director of	counsel are not evidence. 22 Fed. Prac.
8	Nursing”	& Proc. Evid. § 5163 (1st ed.)(citing 1
9		Devitt & Blackmar, Federal Jury
10		Practice and Instructions, 2d ed. 1970, p.
11		211.) <i>Also see British Airways Bd. v.</i>
12		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
13		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
14		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
15		2005) (“Attorney argument is no
16		substitute for evidence.”).
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19		Sustained _____
20		Overruled _____
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22	Objection No. 45:	Speculative (Fed. R. Evid. 602);
23	Para. 29:9-10	Lacks Foundation (Fed. R. Evid. 104);
24	“showing her lack of personal knowledge	Prejudicial, confusing, waste of time
25	of the facts surrounding Patient No. 15’s	(Fed. R. Evid. 403); Arguments of
26	placement on one-on-one monitoring”	counsel are not evidence. 22 Fed. Prac.
27		& Proc. Evid. § 5163 (1st ed.)(citing 1
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Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

Sustained \_\_\_\_\_

Overruled \_\_\_\_\_

### CONCLUSION

Plaintiff/Relator respectfully requests that the Court sustain the above objections and strike the evidence referenced above at the hearing on Defendants’ Motion to Dismiss.

DATED: March 20, 2013

COLLEEN FLYNN  
DISABILITY RIGHTS LEGAL CENTER  
LAW OFFICES OF MARK ALLEN KLEIMAN  
Attorneys for Plaintiff/Relator

\_\_\_\_\_/s/\_\_\_\_\_  
Colleen Flynn